

See Attachment

(13)
1/16/02
WJ

UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

Gregorio A. Vargas,

Plaintiff

v.

Hoffman, et al.,

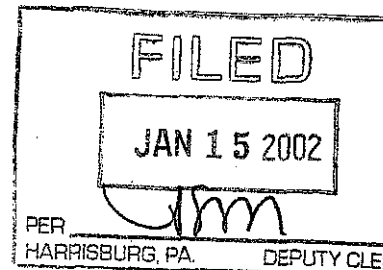
Defendants

CIVIL NO. 1:CV-01-0296

(Judge Caldwell)

ORDER

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:



Gregorio A. Vargas, a prisoner currently confined at SCI-Somerset, filed this pro se civil rights complaint against corrections defendants Powell, Bigelow and Ewings pursuant to 42 U.S.C. § 1983 for events that took place during his incarceration at SCI-Smithfield. Along with his complaint, plaintiff submitted an application requesting leave to proceed in forma pauperis under 28 U.S.C. § 1915 which was granted. On September 7, 2001, defendants Powell, Bigelow and Ewings filed a motion to dismiss for Vargas' alleged failure to exhaust administrative remedies. Defendants filed a brief in support of their motion on September 13, 2001. To date Vargas has never filed a brief opposing the motion.

By Order dated December 12, 2001, Plaintiff Gregorio Vargas was granted twenty (20) days in which to submit an opposing brief to the Defendants' motion to dismiss. The Order specifically

Certified from the record

Date 1/15/02


Mary E. D'Andrea, Clerk

Per [Signature]
Deputy Clerk

forewarned Plaintiff that failure to timely comply would result in dismissal of his action for failure to prosecute or comply with a Court Order. The relevant time period has passed and Vargas has failed either to respond to the pending motion to dismiss or seek an enlargement of time in which to do so. An appropriate order will enter.

AND NOW, this 15th day of January, 2002, it is ordered that:

1. Plaintiff's action is dismissed with prejudice for failure to prosecute or comply with a Court Order pursuant to Federal Rule of Civil Procedure 41(b). See Link v. Wabash Railroad Co., 370 U.S. 626, 629 (1962).
2. The Clerk of Court is directed to close the case.
3. Any appeal from this Order will be deemed frivolous, lacking in probable cause and not taken in good faith.


WILLIAM W. CALDWELL
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

* * MAILING CERTIFICATE OF CLERK * *

January 15, 2002

Re: 1:01-cv-00296 Vargas v. Hoffman

True and correct copies of the attached were mailed by the clerk
to the following:

Gregorio A. Vargas
SCI-SOMERSET
1600 Walters Mill Road
Somerset, PA 15510

Michael J. McGovern, Esq.
Pennsylvania Department of Corrections
55 Utley Drive
Camp Hill, PA 17011

cc:

Judge (✓)
Magistrate Judge ()
U.S. Marshal ()
Probation ()
U.S. Attorney ()
Atty. for Deft. ()
Defendant ()
Warden ()
Bureau of Prisons ()
Ct Reporter ()
Ctroom Deputy ()
Orig-Security (✓)
Federal Public Defender ()
Summons Issued ()
Standard Order 93-5 ()
Order to Show Cause ()
Bankruptcy Court ()
Other _____ ()

(✓) Pro Se Law Clerk Taggart
() INS
() Jury Clerk

() with N/C attached to complt. and served by:
U.S. Marshal () Pltf's Attorney ()

() with Petition attached & mailed certified mail
to: US Atty Gen () PA Atty Gen ()
DA of County () Respondents ()

MARY E. D'ANDREA, Clerk

DATE: 1/15/02

BY: Usm